THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL No. 1710 of 2005

04-10-2005

Between:

B.Ramesh Reddy & Another.

.....APPELLANTS

AND

The Director of Mines & Geology, Medak & Others.

.....RESPONDENTS

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL No. 1710 OF 2005

JUDGMENT : (Per Hon'ble Sri Bilal Nazki, ACJ)

Heard learned counsel for the parties. With their consent, the appeal is being disposed of at this stage.

The writ petitioners challenged the demand notice issued by the Assistant Director of Mines and Geology, Medak under Rule 26(3)(ii) of A.P. Minor Mineral Concession Rules, 1966. The grievance of the petitioners was that the building constructed by them was inspected by the Vigilance and Enforcement Officer, after three years of the construction, that too, in their absence. No show cause notice was given to them before the demand was raised. The learned counsel for the respondents, however, submits that a notice was given to the writ petitioners, when the Vigilance Officer inspected the building, but the petitioners failed to produce the proof of having paid the seigniorage fee/royalty for the items used in the construction. Then again, a notice was given to them on 19th April, 2005, by which, they were asked to furnish the information with regard to payment of seigniorage fee, but the petitioners failed to respond to the notice.

The learned Single Judge disposed of the writ petition with liberty to the petitioners to file an appeal. But the learned counsel for the appellants submits that there is no point in filing the appeal, as the vigilance officer has given a report behind their back and the concerned officer, who had to decide the issue, had not at all heard the petitioners. He submits that the notice was given on the following address;

"*To*

Sri.B.Ramesh Reddy & Smt.B.Sharada,

O/o.A.P.State Ware Housing Corporation,

Zaheerabad (Village & Mandal),

Medak District."

The notice had been given on the address of the building, of which, the appellants are the owners, but has been leased out by them to the A.P.State Ware Housing Corporation. This notice was never brought to their notice by even the A.P. State Ware Housing Corporation.

In this view of the matter, we feel that the interest of justice would be met by allowing the writ petition and quashing the demand notice issued by the 4th respondent, with liberty to the 4th respondent to serve a fresh notice along with the material on which he wants to rely, and after hearing the appellants, pass appropriate orders. It is open to the appellants, to raise all the contentions available to them, before the 4th respondent, as and when he issues a notice to them.

Appeal is accordingly allowed. No order as to costs.

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(BILAL NAZKI, ACJ)

4th October 2005.

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(R.SUBHASH REDDY, J)

ajr